

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JOSEPH LEE JONES,

Petitioner,

v.

CASE NO. 19-3207-SAC

STATE OF KANSAS,

Respondent.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2254. Petitioner, a person held in the Shawnee County Jail, proceeds pro se, and the Court grants leave to proceed in forma pauperis. The Court has screened this matter under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts.

Background

Petitioner challenges his custody under Shawnee County Criminal Case 19-CR-1676. A review of on-line records maintained for the state district courts shows that matter was filed in August 2019 and remains pending¹.

The petition identifies a single ground for relief, stating: "Access to the new[s]paper, also, loss of life and liberty and et al. and to be secure in my person, etc." (Doc. 1, p. 5). The remedy sought is release.

Discussion

Petitioner proceeds under 28 U.S.C. § 2254, which states, in relevant part:

¹ See www.kansas.gov/countyCourts/search/records.

"The Supreme Court, a Justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.

28 U.S.C. § 2254(a).

At this point, petitioner is in custody on pending criminal charges. Because no judgment has been imposed, Section 2254 does not apply to his current custody.² The Court will dismiss this matter without prejudice.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion for leave to proceed in forma pauperis (Doc. 2) is granted.

IT IS FURTHER ORDERED this matter is dismissed without prejudice.

IT IS FURTHER ORDERED no certificate of appealability will issue.

IT IS SO ORDERED.

DATED: This 18th day of October, 2019, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge

² A prisoner seeking relief from pretrial detention may proceed under 28 U.S.C. §2241. See *Yellowbear v. Wyo. Att'y Gen.*, 525 F.3d 921, 924 (10th Cir. 2008) ("Section ... 2241 is a vehicle for challenging pretrial detention."). The Court notes that petitioner has filed a separate action seeking relief under that provision, *Jones v. Phelps*, Case No. 19-3206-SAC. Therefore, the Court does not consider his claims under Section 2241 in this action.